

REMARKS

Claims 8-10, 21, 23-25 and 27-34 were pending in the application. Claims 8-10, 23 and 27 were rejected. Claims 23 and 27 are canceled herein. Claims 8 and 9 are amended herein. It is believed that no new matter has been added. Claims 8-10 are pending, and claims 21, 24-25 and 28-34 are allowed.

Applicants gratefully acknowledge the allowance of claims 21, 24-25 and 28-34.

Rejection under 35 U.S.C. §103(a)

Claims 8-10, 23 and 27 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Schafer *et al.*, *Gene* 136: 295-300(1993). According to the Action, Schafer discloses a polynucleotide sequence of Hc-PMA1 gene that comprises a fragment of 22 contiguous nucleotides of which is 100% identical to a fragment of 22 contiguous nucleotides of SEQ ID NO:3 of the instant invention. Applicants traverse this rejection.

The newly amended claims require that a probe hybridize under the defined stringent wash conditions to at least 25 contiguous nucleotides of SEQ ID NO:3. The sequence identity cited by the Office is less than the claimed 25 contiguous nucleotides, therefore Schafer does not render the claimed methods obvious.

In view of the above, Applicants respectfully request the withdrawal of the rejection under 35 U.S.C. § 103(a).

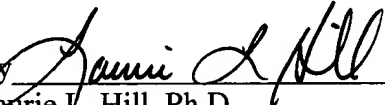
CONCLUSION

Applicants submit that the rejection under 35 U.S.C. § 103 (a) has been overcome by the above remarks. Early allowance of the remaining pending claims 8-10 is respectfully requested. If the Examiner thinks a telephonic conference would be helpful, please call the undersigned at (858) 720-7955 at your convenience.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 140942000210.

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Respectfully submitted,

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